

Senate Study Bill 1080 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON SODDERS)

A BILL FOR

1 An Act relating to the issuance of and violations of civil
2 protective orders and criminal no-contact orders and
3 modifying penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.19, subsection 1, Code 2015, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *e.* By a peace officer pursuant to section
4 664A.6.

5 Sec. 2. Section 331.756, subsection 4, Code 2015, is amended
6 to read as follows:

7 4. ~~Prosecute misdemeanors under chapter 664A. The county~~
8 ~~attorney shall prosecute other~~ misdemeanors when not otherwise
9 engaged in the performance of other official duties.

10 Sec. 3. Section 664A.1, subsection 2, Code 2015, is amended
11 to read as follows:

12 2. "*Protective order*" means a protective order issued
13 pursuant to chapter 232, a court order or court-approved
14 consent agreement entered pursuant to this chapter or chapter
15 235F, a court order or court-approved consent agreement entered
16 pursuant to chapter 236, including a valid foreign protective
17 order under section 236.19, subsection 3, a ~~temporary or~~
18 ~~permanent~~ protective order or order to vacate the homestead
19 under chapter 598, ~~or an order that establishes conditions~~
20 ~~of release or is a protective order or sentencing order in~~
21 ~~a criminal prosecution arising from a domestic abuse assault~~
22 ~~under section 708.2A, or a civil injunction issued pursuant to~~
23 section 915.22.

24 Sec. 4. Section 664A.3, Code 2015, is amended to read as
25 follows:

26 **664A.3 Entry of ~~temporary~~ no-contact order.**

27 1. When a person is ~~taken into custody for contempt~~
28 ~~proceedings pursuant to section 236.11 or arrested for any~~
29 ~~public offense referred to in section 664A.2, subsection 1,~~
30 and the person is brought before a magistrate for initial
31 appearance, the magistrate shall enter a no-contact order if
32 the magistrate finds both of the following:

33 *a.* Probable cause exists to believe that any public offense
34 ~~referred to in section 664A.2, subsection 1, or a violation of~~
35 ~~a no-contact order, protective order, or consent agreement has~~

1 occurred.

2 ~~b.~~ The presence of or contact with the defendant poses a
3 threat to the safety of the alleged victim, persons residing
4 with the alleged victim, or members of the alleged victim's
5 family.

6 ~~2. Notwithstanding chapters 804 and 805, a person taken~~
7 ~~into custody pursuant to section 236.11 or arrested pursuant to~~
8 ~~section 236.12 may be released on bail or otherwise only after~~
9 ~~initial appearance before a magistrate as provided in chapter~~
10 ~~804 and the rules of criminal procedure or section 236.11,~~
11 ~~whichever is applicable.~~

12 ~~3.~~ 2. A no-contact order issued pursuant to this section
13 shall be issued in addition to any other conditions of release
14 imposed by a magistrate pursuant to section 811.2. The
15 no-contact order has force and effect until it is modified or
16 terminated by subsequent court action ~~in a contempt proceeding~~
17 ~~or criminal or juvenile court action~~ and is reviewable in the
18 manner prescribed in section 811.2. ~~Upon final disposition~~
19 ~~of the criminal or juvenile court action, the court shall~~
20 ~~terminate or modify the no-contact order pursuant to section~~
21 ~~664A.5.~~

22 ~~4.~~ 3. A no-contact order requiring the defendant to have
23 no contact with ~~the alleged victim's children~~ or children of
24 the alleged victim shall prevail over any existing custodial,
25 visitation, or other conflicting order ~~which may be in conflict~~
26 ~~with the no-contact order.~~

27 ~~5.~~ 4. A no-contact order ~~issued pursuant to this section~~
28 shall restrict the defendant from having contact with the
29 victim, persons residing with the victim, ~~or~~ and the victim's
30 immediate family.

31 ~~6.~~ 5. A no-contact order ~~issued pursuant to this section~~
32 shall specifically include notice that the person may be
33 required to relinquish all firearms, offensive weapons, and
34 ammunition ~~upon the issuance of a permanent no-contact order~~
35 ~~pursuant to section 664A.5.~~

1 Sec. 5. Section 664A.5, Code 2015, is amended to read as
2 follows:

3 **664A.5 Modification — entry of permanent no-contact order.**

4 If a defendant is convicted of, receives a deferred judgment
5 for, or pleads guilty to a public offense referred to in
6 ~~section 664A.2, subsection 1,~~ or is held in contempt for a
7 violation of a no-contact order ~~issued under section 664A.3~~
8 ~~or for a violation of a protective order issued pursuant to~~
9 ~~chapter 232, 235F, 236, 598, or 915,~~ the court shall either
10 continue, terminate, or modify the temporary no-contact order
11 issued by the magistrate or juvenile court. The court may
12 ~~enter a no-contact order or continue the no-contact order~~
13 ~~already in effect~~ may be issued for a period of five years
14 from the date the judgment or contempt finding is entered or
15 the deferred judgment is granted, regardless of whether the
16 defendant is placed on probation.

17 Sec. 6. Section 664A.6, Code 2015, is amended to read as
18 follows:

19 **664A.6 ~~Mandatory arrest~~ Taking into custody for violation of**
20 **no-contact order — immunity for actions.**

21 1. a. If a peace officer has probable cause to believe
22 that a person who is eighteen years old or older has violated
23 a no-contact order ~~issued under this chapter~~ or a protective
24 order, the peace officer shall take the person into custody
25 and shall take the person without unnecessary delay before the
26 nearest or most accessible magistrate in the judicial district
27 in which the person was taken into custody. Notwithstanding
28 chapters 804 and 805, a person taken into custody pursuant to
29 this subsection may be released on bail or otherwise only after
30 initial appearance before a magistrate as provided in chapter
31 804 and the rules of criminal procedure, or section 236.11,
32 whichever is applicable.

33 b. If a peace officer has probable cause to believe that
34 a person under the age of eighteen has violated a protective
35 order, the peace officer shall take the person into custody

1 and shall take the person without unnecessary delay before
2 the nearest or most accessible juvenile court in the judicial
3 district in which the person was taken into custody.

4 2. If the peace officer is investigating a domestic abuse
5 assault pursuant to section 708.2A, the officer shall also
6 comply with sections 236.11 and 236.12.

7 3. A peace officer shall not be held civilly or criminally
8 liable for acting pursuant to this section provided the peace
9 officer acts in good faith and on reasonable grounds and the
10 peace officer's acts do not constitute a willful or wanton
11 disregard for the rights or safety of another.

12 Sec. 7. Section 664A.7, Code 2015, is amended to read as
13 follows:

14 **664A.7 Violation of no-contact order or protective order —**
15 **contempt or simple misdemeanor penalties.**

16 1. Violation of a no-contact order ~~issued under this~~
17 ~~chapter or a protective order issued pursuant to chapter 232,~~
18 ~~235F, 236, or 598, including a modified no-contact order, is~~
19 ~~punishable by summary contempt proceedings.~~

20 2. A hearing in a contempt proceeding brought pursuant to
21 this section shall be held not less than five and not more than
22 fifteen days after ~~the issuance of a rule to show cause, as~~
23 ~~determined by the court~~ the person is taken into custody.

24 3. If ~~convicted of or held in contempt for a violation of a~~
25 ~~no-contact order or a modified no-contact order for a public~~
26 ~~offense referred to in section 664A.2, subsection 1, or held~~
27 ~~in contempt of a no-contact order issued during a contempt~~
28 ~~proceeding brought pursuant to section 236.11, the person shall~~
29 be confined in the county jail for a minimum of seven days and
30 a maximum of one hundred eighty days per violation. A jail
31 sentence imposed pursuant to this subsection shall be served
32 on consecutive days. No portion of the mandatory minimum term
33 of confinement imposed by this subsection shall be deferred
34 or suspended. A deferred judgment, deferred sentence, or
35 suspended sentence shall not be entered for a violation of a

1 no-contact order, ~~modified no-contact order~~, or protective
2 order and the court shall not impose a fine in lieu of the
3 minimum sentence, although a fine may be imposed in addition
4 to the minimum sentence.

5 4. If ~~convicted or~~ held in contempt for a violation of
6 a ~~civil~~ protective order referred to in section 664A.2, the
7 person shall serve a jail sentence. A jail sentence imposed
8 pursuant to this subsection shall be served on consecutive
9 days. A person who is ~~convicted of or~~ held in contempt for a
10 violation of a protective order referred to in section 664A.2
11 may be ordered by the court to pay the plaintiff's attorney's
12 attorney fees and court costs.

13 5. ~~Violation of a no-contact order entered for the offense~~
14 ~~or alleged offense of domestic abuse assault in violation of~~
15 ~~section 708.2A or a violation of a protective order issued~~
16 ~~pursuant to chapter 232, 235F, 236, 598, or 915 constitutes~~
17 ~~a public offense and is punishable as a simple misdemeanor.~~
18 ~~Alternatively, the court may hold a person in contempt of court~~
19 ~~for such a violation, as provided in subsection 3.~~

20 6. 5. A person shall not be held in contempt ~~or convicted~~
21 ~~of violations~~ under multiple no-contact orders, protective
22 orders, or consent agreements, for the same set of facts and
23 circumstances that constitute a single violation.

24 Sec. 8. Section 664A.8, Code 2015, is amended to read as
25 follows:

26 **664A.8 Extension of no-contact order.**

27 Upon the filing of an application by the state or by ~~the~~
28 ~~victim of any public offense referred to in section 664A.2,~~
29 ~~subsection 1~~ a protected party which is filed within ninety
30 days prior to the expiration of a modified no-contact order,
31 the court shall modify and extend the no-contact order for an
32 additional period of five years, unless the court finds that
33 the defendant no longer poses a threat to the safety of the
34 victim, persons residing with the victim, or members of the
35 victim's family. The number of modifications extending the

1 no-contact order permitted by this section is not limited.

2 Sec. 9. NEW SECTION. **664A.9 Termination or modification of**
3 **no-contact order.**

4 A no-contact order may be terminated or modified only upon
5 petition of the state or protected party.

6 Sec. 10. Section 907.3, subsection 1, paragraph a,
7 subparagraph (8), Code 2015, is amended to read as follows:

8 (8) The offense is ~~a conviction for or plea of guilty to a~~
9 ~~violation of section 664A.7 or a finding of contempt pursuant~~
10 ~~to section 664A.7.~~

11 Sec. 11. Section 907.3, subsection 2, paragraph a,
12 subparagraph (4), Code 2015, is amended to read as follows:

13 (4) ~~Section 664A.7 or for~~ For contempt pursuant to section
14 664A.7.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to the issuance of and violations of civil
19 protective orders and criminal no-contact orders, and modifies
20 penalties.

21 Current law defines a no-contact order as a court order
22 issued in a criminal proceeding requiring a defendant to have
23 no contact with the alleged victim, persons residing with the
24 alleged victim, or members of the alleged victim's immediate
25 family, and to refrain from harassing the alleged victim,
26 persons residing with the alleged victim, or members of the
27 alleged victim's family. A protective order is defined as a
28 protective order issued pursuant to Code chapter 232 (juvenile
29 justice), a court order or court-approved consent agreement
30 entered pursuant to Code chapter 235F (elder abuse), a court
31 order or court-approved consent agreement entered pursuant to
32 Code chapter 236 (civil domestic abuse), including a valid
33 foreign protective order, a temporary or permanent protective
34 order or order to vacate the homestead under Code chapter 598
35 (dissolution of marriage and domestic relations), an order that

1 establishes conditions of release or is a protective order
2 or sentencing order in a criminal prosecution arising from a
3 domestic abuse assault under Code section 708.2A (criminal
4 domestic abuse), or a civil injunction issued to restrain
5 harassment or intimidation of victims or witnesses in a
6 criminal case under Code section 915.22. The bill amends the
7 definition of protective order to eliminate language allowing
8 for the issuance of a protective order in criminal proceedings.
9 The bill amends a related provision allowing the court to issue
10 a no-contact order as a result of a violation of a protective
11 order.

12 Current law allows a court to issue a temporary no-contact
13 order and a permanent no-contact order. The bill eliminates
14 the distinction between temporary and permanent no-contact
15 orders.

16 Current law provides for a mandatory arrest procedure for
17 violations of no-contact orders but not for violations of
18 protective orders. The bill amends this provision to provide
19 that a person who violates a protective order is also subject
20 to mandatory arrest.

21 Under current law, if a person violates a no-contact order or
22 a protective order, the person may be charged with a criminal
23 offense (simple misdemeanor) or may be held to be in contempt
24 of court. The bill eliminates the criminal offense option
25 for violations of no-contact orders or protective orders. A
26 person held in contempt for a violation of a no-contact order
27 is subject to confinement in the county jail for a minimum of
28 seven days and a maximum of 180 days per violation. A fine may
29 also be imposed in addition to the minimum sentence. A person
30 held in contempt for a violation of a protective order shall
31 serve a jail sentence, and may be ordered by the court to pay
32 the plaintiff's attorney fees and court costs.

33 The bill provides that a no-contact order may only be
34 terminated or modified upon petition by the state or the
35 protected party.

S.F. _____

1 The bill makes conforming changes.